IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 382 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RV RANA & 32 - Petitioner(s)

Versus

SANGHVI & SONS & 8 - Respondent(s)

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Appearance :

MR CG GOVINDAN for MR AK CLERK for Petitioner No(s).: 1,2,3,4,5,6,7, 8,9,10,11,12,13,14,15,16, 17,18,19,20,21,22,23,24,25, 26,27,28,29,30,31,32,33.

MR RR MARSHALL for Respondent No(s).: 1, 2, 3, 4,5.

MR NR SHAHANI for Respondent No(s).: 6.

MR MD RANA for Respondent No(s).: 7.

MR KL PANDYA A.G.P. for Respondent No(s).: 8,9.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 01/08/2005

ORAL JUDGMENT

1. This petition is directed against the judgment

and award dated 19th June, 1997 passed by the Labour Court, Surat in Reference [L.C.S.] Nos. 232/96, 236/96, 237/96, 240/96, 242/96, 244/96, 247/96, 250/96, 251/96, 255/96. 256/96, 261/96, 263/96, 266/96, 268/96, 270/96, 270/96, 272/96, 274/96, 278/96, 283/96, 287/96, 291/96, 293/96, 295/96, 296/96, 299/96, 303/96, 309/96, 312/96, 315/96, 325/96, 326/95, 326/96, 327/96, 332/96 & 329/96, whereby the said references were withdraw by the representative of the petitioners.

2. The short facts of the case are that the petitioners were working on the machines for polishing and processing the diamonds of the respondent firm. They were working as such for many years. Since, the respondent acquired modern machinery, the respondent without following any procedure under the Industrial Disputes Act, 1947 terminated the services of the petitioner w.e.f. 11th December, 1995.

2.1. Being aggrieved by the said action, the petitioners raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering, passed the impugned award. Hence, this petition.

3. Mr. Govindan learned advocate appearing for the petitioners has contended that the award passed by the Labour Court is erroneous *inasmuch* as the Labour Court could not to have accepted the purshis filed by the Union without verifying from the concerned workmen whether they were willing to withdraw the references or whether there was any settlement between the parties. He has, therefore, submitted that the Labour Court before passing the impugned award ought to have examined the documents on record.

4. I have heard the learned counsel for the parties and have perused the materials produced on record. I find force in the submission of the learned counsel for the petitioners. Apart from that even if it is assumed that the petitioners have been paid their dues, the Labour Court ought to have examined the payment receipts. Therefore, I am of the opinion that the Labour Court ought to have examined the said documents and evidence on record. Accordingly, the impugned order is required to be quashed and set aside and the matter is required to be remanded to the Labour Court for fresh decision.

5. In the premises aforesaid, on the facts and circumstances of the case, the impugned award dated 19th June, 1997 passed by the Labour Court, Surat in Reference [L.C.S.] Nos. 232/96, 236/96, 237/96, 240/96, 242/96, 244/96, 247/96, 250/96, 251/96, 255/96. 256/96, 261/96, 263/96, 266/96, 268/96, 270/96, 270/96, 272/96, 274/96, 278/96, 283/96, 287/96, 291/96, 293/96, 295/96, 296/96, 299/96, 303/96, 309/96, 312/96, 315/96, 325/96, 326/95, 326/96, 327/96, 332/96 & 329/96 is quashed and set aside. The matter is remanded to the Labour Court for deciding the References afresh after taking into consideration the said documents.

5.1. It is however clarified that the Labour Court shall hear and decide the matter afresh without being influenced by the earlier order which is quashed and set aside in the present petition and also the present order since the same has been passed without entering into the merits of the matter. It is further clarified that if it is found that the amount has been paid to the workmen as per the settlement, then it will be open for the Labour Court to accept the same and shall pass order accordingly.

6. Rule is made absolute to the aforesaid extent with no order as to costs.

R & P to be sent forthwith.

[K.S. JHAVERI, J.]

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